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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,893	12/01/2000	Dennis Bigg	427 038	9852
47888	7590	08/16/2005	EXAMINER	
<b>HEDMAN &amp; COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036</b>				COLEMAN, BRENDA LIBBY
		ART UNIT		PAPER NUMBER
		1624		

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/701,893	BIGG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Brenda L. Coleman	1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 June 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 3,9,10 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 13 is/are allowed.
- 6) Claim(s) 3,9,10,12 and 14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 3, 9, 10 and 12-14 are pending in the application.

This action is in response to applicants' amendment filed June 2, 2005.

Claims 9, 10 and 14 have been amended.

**Note: The applicants' are reminded of the manner of making amendments.**

37 CFR § 1.121 Manner of making amendments in application.

(c) Claims. Amendment to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims in the amendment document will serve to replace all prior versions of the claims in the application. In the claim listing, the **status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).**

**The following claim(s) fail to properly identify the status of the claims:**

**claim 9, 10 and 14 have been amended in the response filed June 2, but claims 9 and 10 indicate (Previously presented) after the claim numbers and claim 14 indicates (New). Amended claims will not print properly if the status identifier is not properly stated, i.e. (Currently amended).**

### ***Response to Arguments***

Applicants' arguments filed June 2, 2005 have been fully considered with the following effect:

1. With regards to the objection of claims 9 and 10 labeled paragraph 8c), maintained in the last office action, the applicant's amendments and remarks have been fully considered but they are not persuasive.

c) The applicants indicate that, "claims 9 and 10 have been amended to indicate the point of attachment of the  $-SO_2^-$ ". However, the amendment placed the point of attachment in the superscript not after the 2.

Claims 9 and 10 are objected to for reasons of record and stated above.

2. The applicant's amendments and arguments are sufficient to overcome the 35 U.S.C. § 112, first paragraph rejection labeled paragraph 9 in the last office action, which is hereby **withdrawn**.

3. The applicant's amendments and arguments are sufficient to overcome the 35 U.S.C. § 112, first paragraph rejections labeled paragraph 10a) and c) of the last office action, which are hereby **withdrawn**. However, with regards to the rejection of claims 9, 10 and 12 labeled paragraph 10b), in the last office action, the applicant's amendments and remarks have been fully considered but they are not persuasive.

b) The applicants indicate that, "claims 9 and 10 have been amended to indicate the point of attachment of the  $-SO_2^-$ ". However, the amendment placed the point of attachment in the superscript not after the 2.

Claims 9, 10 and 12 are vague and indefinite in that it is not known what is meant by the definition of  $R_3$ , for reasons of record and stated above.

In view of the amendment dated June 2, 2005, the following new grounds of rejection apply:

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 3, 9, 10, 12 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following reasons apply:

- a) Claim 3 recites the limitation "-CH<sub>2</sub>NH-, -NH-, -O-, -S-" in the definition of X. There is insufficient antecedent basis for this limitation in the claim.
- b) Claims 9, 10 and 12 are vague and indefinite in that it is not known what is meant by the definition of the variable Z. There is no variable Z in the claims.
- c) Claim 14 is vague and indefinite in that it is not known what is meant by the brackets around the last species on page 14. It is not known if this is a canceled species or not.
- d) Claim 14 recites the limitation "-NH-, -O-" in the definition of X for the species spanning pages 15-17 of the amendment. There is insufficient antecedent basis for this limitation in the claim.

***Allowable Subject Matter***

5. Claim 13 is allowed. None of the prior art of record or a search in the pertinent art area teaches the compounds of formula I as claimed herein.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda L. Coleman whose telephone number is 571-272-0665. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brenda L. Coleman  
Primary Examiner Art Unit 1624  
August 15, 2005